

TERESA CASTO,)
)
 Plaintiff,)
) CIVIL ACTION NO.)
 v.)
)
 UNUM LIFE INSURANCE COMPANY)
 OF AMERICA and UNUM GROUP)
 CORP.,)
)
 Defendants.)

Defendant Unum Group Corp. (“Unum Group”), by counsel, removes this action to the United States District Court for the Eastern District of Tennessee, at Chattanooga, stating as follows:

2. This action is of a civil nature, involving a claim for benefits pursuant to an employee welfare benefit plan, specifically a Long-Term Disability Plan established by Plaintiff's former employer Trinity Health Corporation ("Trinity Health"), and funded by disability insurance policy No. 503126 (the "Policy") issued by Unum Life Insurance Company of America ("Unum Life"). The Complaint alleges Plaintiff is employed by Mount Carmel St. Ann's, which is a member organization of Trinity Health.

3. The Policy was issued as part of a Long-term Disability Plan (the “LTD Plan”) specifically developed for Plaintiff’s employer, Trinity Health. A copy of the Policy is attached hereto as **Exhibit D**. Trinity Health is the administrator of the LTD Plan and has delegated to Unum Life discretionary authority to administer benefits under the LTD Plan.

4. Plaintiff alleges she is entitled to disability benefits under the LTD Plan as a result of several alleged disabilities. Plaintiff alleges she filed an application for benefits under the LTD on June 4, 2002. Plaintiff alleges Defendants have denied her benefits owed under the LTD Plan.

5. This Court has original federal question jurisdiction over this action pursuant to 28 U.S.C. §1331, inasmuch as the Complaint asserts a claim for benefits under an employee benefit plan established under and governed by the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, *et seq.* (“ERISA”).

6. ERISA completely preempts state law causes of action and provides the exclusive federal remedies for the resolution of claim for benefits by employee benefit plan participants and beneficiaries. *See* ERISA §502(a)(1)(B), 29 U.S.C. §1132(a)(1)(B); *Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41 (1987).

7. Section 502(e) of ERISA, 29 U.S.C. §1132(e), confers original jurisdiction upon the district courts of the United States over claims initiated by participants or beneficiaries to recover benefits due or to enforce rights under employee benefit plans subject to ERISA.

8. Thus, Plaintiff’s Complaint is an action of a civil nature founded upon a claim of right arising under the laws of the United States over which the district court of the United States is given original jurisdiction pursuant to 28 U.S.C. §1331 and is therefore removable to this Court pursuant to the provisions of 28 U.S.C. §§1441(a) and (b). *See Metropolitan Life Ins. Co. v. Taylor*,

481 U.S. 58 (1987). Such a claim is properly removable even if the applicability of ERISA preemption does not appear on the face of the Complaint. *Id.*

9. Relying on a 2017 summary plan description for the Trinity Health Pension Plan, Plaintiff's Complaint suggests that the LTD Plan is a "church plan" and not subject to ERISA. *See* Complaint at para. 13. In fact, Trinity Health has a separate ERISA-governed Welfare Benefit Plan through which LTD benefits are provided. A copy of the Summary Plan Description (SPD) for Trinity Health's Welfare Benefits Plan is attached hereto as **Exhibit E**. The SPD states, in pertinent part, "Trinity Health Corporation is the Plan Administrator and named fiduciary for purposes of ERISA. The Plan was originally effective January 1, 2002. The Plan contains two ERISA Plans that have plan number designations Plan 504 and 505." *Id.* at p. 39. As applicable here, the 505 Plan provides for a long-term disability insurance program. *Id.* at p. 4.

10. Trinity Health's publicly available filings with the IRS are also consistent with its Welfare Benefits Plan being subject to ERISA. For example, Trinity Health has been filing ERISA Form 5500s for its Welfare Plan including the LTD Plan at least as early as 2001, and as recently as 2016. Trinity Health's Form 5500 and Schedule A for 2001 and 2016 are attached hereto as collective **Exhibits F and G**, respectively.

11. Trinity Health's ERISA Form 5500 filings reflect an effective date of its LTD Plan of January 1, 2002, which is the same effective date as the Policy. *See* **Exhibits D and G**. Co-Defendant Unum Life was the disability insurer for Trinity Health's LTD Plan until April 1, 2011.

12. Under 29 U.S.C. § 1002(33), "[a] plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan maintained by an organization, ... the principal purpose or function of which is the administration

or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both” 29 U.S.C. § 1002(33)(C)(i).

13. Trinity Health has as its principal purpose to provide health care to individuals within the various communities of its member organizations. Accordingly, Trinity Health’s Welfare Benefit Plan including the LTD Plan is not a church plan and is therefore subject to ERISA. *See e.g., Hanshaw v. Life Ins. Co. of North America*, No. 3:14-cv-00216, 2014 WL 5439253 at * 8 (W.D. Ky. Oct. 24, 2014) (denying plaintiff’s motion to remand and rejecting plaintiff’s assertion that church-affiliated hospital’s disability plan was a church plan; court observed that “plaintiff’s argument disregards the limiting language of subsection C(i) that to maintain a church plan, an organization must not only be associated with the church, but it must have as its ‘principal purpose or function ... the administration or funding of a [benefits] plan or program.’ (citation omitted) St. Claire Medical Center is a health care organization; its principal purpose is the provision of health care, not the administration of a benefits plan. Therefore, the Court finds that St. Claire’s long-term disability benefits plan is not a “church plan” under ERISA, and is, therefore, governed by ERISA.”).

14. Defendants have filed no pleadings in this action, and this Notice of Removal is filed within thirty (30) days after Unum Group’s receipt of copies of the Complaint and Summons in this action.

15. Defendants are giving notice of the filing of this Notice of Removal to all adverse parties as required by 28 U.S.C. §1446(d) and will file a copy with the Clerk of the Circuit Court of Hamilton County, Tennessee, as further required by that section.

16. Co-Defendant Unum Life Insurance Company of America consents and joins in Unum Group’s removal of this case.

WHEREFORE, Unum Group respectfully requests that this Court accept this Notice of Removal and that it assume jurisdiction of this cause and issue such further order and processes as may be necessary for the adjudication hereof.

Respectfully submitted June 5, 2019.

MILLER & MARTIN PLLC

s/James T. Williams

James T. Williams, BPR # 16341

james.williams@millermartin.com

Tamra N. Harris, BPR # 036307

tamra.harris@millermartin.com

832 Georgia Avenue, Suite 1200

Chattanooga, TN 37402-2289

Telephone: (423) 756-6600

Facsimile: (423) 785-8480

Attorneys for Defendants Unum Life

Insurance Company of America

Unum Group Corporation

CERTIFICATE OF SERVICE

I hereby certify that on **June 5, 2019**, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

MILLER & MARTIN PLLC

s/James T. Williams

James T. Williams, BPR # 16341
james.williams@millermartin.com
Tamra N. Harris, BPR # 036307
tamra.harris@millermartin.com
832 Georgia Avenue, Suite 1200
Chattanooga, TN 37402-2289
Telephone: (423) 756-6600
Facsimile: (423) 785-8480
Attorneys for Defendants